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\$245

PTO/SB/61 (11-03)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37 CFR 1.137(a)

Docket Number (Optional)

First Named Inventor: THOMAS C THOMPSON Art Unit:

Application Number: 09/396,128

Examiner: HAW TRAN

Filed: 09/14/99

Title: FREEZE PLATE

RECEIVED

MAY 13 2004

OFFICE OF PETITIONS

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

NOTE: If information or assistance is needed in completing this form, please contact
Petitions Information at (703) 305-9382.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION.

NOTE: A grantable petition requires the following items:

- (1) Petition fee.
- (2) Reply and/or issue fee.
- (3) Terminal disclaimer with disclaimer fee-required for all utility and plant applications filed before June 8, 1995, and for all design applications; and
- (4) Adequate showing of the cause of unavoidable delay.

1. Petition fee

☒ Small entity - fee \$ 55.00 (37 CFR 1.17(l)). Applicant claims small entity status.
See 37 CFR 1.27.

☐ Other than small entity - fee \$ _____ (37 CFR 1.17(l)).

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of
DISMISSED PETITION (identify the type of reply):

☐ has been filed previously on Aug 14 03 & Oct 19, 03
☒ is enclosed herewith.

B. The issue fee of \$ 55.00

☐ has been filed previously on _____
☒ is enclosed herewith.

[Page 1 of 3]

This collection of information is required by 37 CFR 1.137(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

05/11/2004 EFLORES 00000119 09396128

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.

MAY 5, 2004

Date

Thomas C Thompson

Signature

THOMAS C THOMPSON

Typed or printed name

Registration Number, if applicable

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply.)

(Please attach additional sheets if additional space is needed.)



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)

3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

MAY 5, 2004
Date

Thomas C Thompson
Signature

(808) 672-3107
Telephone Number

THOMAS C THOMPSON
Typed or printed name

Registration Number, if applicable

92-543 KOKOLE PC
Address

MAKAKICO, HAWAII
Address

96707

Enclosure ☒ Fee Payment

☒ Reply

☐ Terminal Disclaimer Form

☒ Additional sheets containing statements establishing unavoidable delay

☐

CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))

I hereby certify that this correspondence is being:

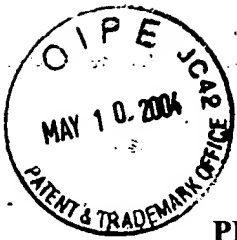
- ☒ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

- ☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 872-9306.

MAY 5, 2004
Date

Thomas C Thompson
Signature

THOMAS C THOMPSON
Typed or printed name of person signing certificate



IN THE PATENT AND TM OFFICE

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37CFR 1.137(a)

United States Patent and Trademark Office

Mailed May 5, 2004

Office of Petitions

P.O. Box 1450

Alexandria, VA 22313-1450

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MAY 13 2004
OFFICE OF PETITIONS

Sir:

In response to the telephone conversation with Steven N. Meyers about the Withdrawal on the Holding of Abandonment, mailed 04/27/04, I have included in this response the following:

1. Request to revive application 09/396,128 because delay was unavoidable.
2. Certificate of mailing.
3. Form PTO/SB61.
4. Check for \$55.

Very respectfully,

Thomas C. Thompson

Certificate of mailing:

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

Commissioner for Patents,

P.O. Box 1450

Alexandria, VA 22313-1450

on MAY 5 2004

(Date)

Printed name of person signing this certificate: Thomas C. Thompson

Signature:

RESPONSE

1. I am the applicant in the above application (09/396,128). The delay was unavoidable.
2. The abandonment action started with the applicant's 10/26/02 response to the examiner's 06/26/02 Office Action. In Examiner Tran's Office Action, mailed 06/26/02, the examiner canceled claims 1-19 and renumbered the new claims as 20-39, under Rule 126.
3. On the applicant's response, mailed 10/26/02, the applicant respectfully requested renumbering of the claims on the cover page and again on page 2. All of the examiner's rejections were responded to on the applicant's amended claims. The applicant had to use the old numbered claims to respond to each rejection since the examiner had used the old claim numbers in the rejections. The applicant's clean copy of the claims (pages 15-18) were numbered, as per the examiner's request, as claims 20-39. Twenty claims, including two independent claims.
4. From April 1, 2002 through August 12, 2002, the pro se applicant received 15 different Office Actions on his following applications that needed responses:

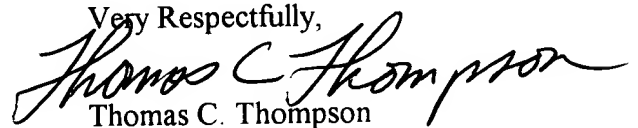
Application No.:	09/516,655	Date mailed:	04/01/02
	09/710,116		04/09/02
	09/793,852		04/09/02
	09/794,997		04/12/02
	09/810,751		04/16/02
	09/690,657		04/23/02
	09/958,267		05/24/02
	09/945,283		06/19/02
	09/516,655		06/25/02
	09/396,128		06/26/02
	09/710,116		06/27/02
	09/794,931		07/02/02
	09/887,046		07/05/02
	09/793,852		08/08/02
	09/690,657		08/12/02

5. There were other Office Actions before and after, but the applicant had a hard time answering each and had to request a one month extension to answer the 09/396,128 Office Action mailed 06/26/02. A check for \$55 was included in the response.
6. The applicant took a business and vacation trip to the Philippines after all the responses were sent. The neighbor would mail out any new Office Actions to the applicant. An

Office Communication mailed 11/21/02, by Clerk of Group G. Johnson, stated that \$114 was due for excess claims. This communication was received by the applicant in the Philippines a month after it was mailed.

7. The applicant knew that the clerk had made a mistake, since there were only 20 claims in the 10/26/02 response. The applicant was able to type out a two page response about the PTO's error, but could not find a working, public fax machine to sent it to the PTO.
8. The applicant found an Internet Café, where he was able to e-mail his response to his brother in Colorado. The applicant's brother was able to fax the two page document via a computer fax program to the PTO.
9. The applicant had done everything in his power to explain the PTO's error, but the PTO would not accept the 12/26/02 fax, since the received copy was not signed by the applicant, even though the original was signed.
10. If the PTO had not miscounted the number of claims submitted in the applicant's 10/26/02 response, there would not have been any need for an Office Communication, no need for the applicant to hunt around the Philippines for a working public fax machine, nor any delay.
11. The applicant had assumed that the examiner would understand that the 10/26/02 response had the amended claims with the examiner's remarks addressed, and the clean copy of the claims with the claims renumbered as per the examiner's direction. The clerk unintentionally miscounted the amended claims and the clean copy of the claims.
12. The applicant respectfully requests that application 09/396,128 be revived because the delay was unavoidable and caused by an error at the PTO. Since the applicant's 10/26/02 response was proper, sent in with the correct amount of fees, only 20 claims, and in good faith, the applicant respectfully requests that the examiner continue processing the applicant's 10/26/02 response.

Very Respectfully,



Thomas C. Thompson

92-543 Kokole Pl.

Makakilo, HI 96707

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